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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,770	02/25/2004	Jeffrey Frank Vasquez	1220-101.US	2863

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,770

Applicant(s)

VASQUEZ, JEFFREY FRANK

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 13-16, 18-22 and 26-32 is/are rejected.
- 7) ☒ Claim(s) 4-8, 10-12, 17, 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 13-15, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Swapp #5,379,551. Swapp, as recited in column 5, lines 27-37, ***and best seen in Figures 2 and 3***, discloses a shutter assembly comprised of a “geared” motor unit (inherently powered) attachable to a moving assembly 156, a slat interface 100, having a body portion 112 (connectable/engaged to the moving assembly) and a connector portion 114 that is received within an end of slats 16 and ***has a washer portion (unnumbered) that also overlies at least a portion of an intermediate external surface of the slat.***

Claims 1, 2, 9, 26, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Milano, Jr. #6,568,131. Milano Jr., as best seen in Figures 5-7, and as recited in column 2, lines 15-23, column 3, lines 37-51, and column 4, lines 11-23, discloses a shutter assembly 10 comprised of a geared motor assembly 80, 82, moving assembly 52 that is attached to body portion 54 of slat interface 42, the slat interface also having a connector portion 50 and sleeve portions 58 that are received within/on ***at least a portion of an intermediate external surface*** of slat 18a, and slip mechanism/clutch as recited in column 4, lines 11-23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 18, 19, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swapp as applied to claims 1, 2, 13-15, 29, and 30 above, in view of Toda et al #4,449,563.

Swapp fails to disclose a battery, AC, or solar powered shutter assembly. Toda et al, as recited in column 1, lines 43-49, teaches the utility of a multi-source powered shutter assembly, the power source being no matter than an obvious design choice. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide multiple power sources to power the shutter assembly of Swapp by solar or battery sources, as taught by Toda et al, so as to power the shutter assembly in multiple manners inclusive of AC power, while producing no new and unexpected results.

Claims 20, 21, 22, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swapp as applied to claims 1, 2, 13-15, 29, and 30 above, in view of Brinkerhoff et al #6,692,349. Swapp fails to disclose a remote controlled shutter assembly. Brinkerhoff et al, as recited in column 5, lines 1-7, teach the utility of a remote control unit 14 for a shutter assembly/vent/louver assembly, the unit having multiple input buttons 18 and wireless transceiver used to control louver movement. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide the shutter

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assembly of Swapp with a remote control assembly as taught by Brinkerhoff et al, so as to control louver movement from remote locations, while producing no new and unexpected results.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swapp as applied to claims 1, 2, 13-15, 29, and 30 above, and in view of Ruggles as advanced in the prior Office Action. Swapp fails to disclose a housing for the motor assembly. Ruggles teaches the utility of a housed motor assembly for a shutter assembly, the housing providing a protective cover for the motor. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide the shutter assembly of Swapp with a motor housing as taught by Ruggles, so as to provide a protective cover for the motor, while producing no new and unexpected results.

Allowable Subject Matter

Claims 4-8, 10-12, 17, and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 4 is the inclusion of the moving assembly having a screw-threaded shaft along which the carriage assembly moves in a linear manner. For claim 7, ***it is the inclusion of the connector portion having a flat plate connectable to the flat surface of the slat and a curved portion corresponding to a curve on the slat.*** For claim 8, it is the inclusion of a second flat plate portion connected to the curved portion to engage a second surface of the slat. For claim 10, it is the inclusion of an adhesive means on the connector portion. For claim 17, it is the inclusion of the solar connector mounted on the outside of the housing that house a part of the moving assembly.

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For claim 23, it is the inclusion of the connector having a hole and screw that passes there through to secure the slat. For claim 24, it is the inclusion of the body having an aperture and the moving assembly having a clevis joint received by the aperture. For claim 25, it is the inclusion of the body portion having a ball and the moving assembly having a socket that receives the ball. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Response to Arguments

Applicant's arguments with respect to claims 1, 27, 29, and 30 have been considered but are not persuasive. Applicant's attention is drawn to pages 12 and 13 of the Remarks of 6-1-06. It appears that the applicant has failed to properly define the structure of "the intermediate portion" of the slat. The Examiner's interpretation of an intermediate portion is one that is at a midpoint or middle portion of an element. With respect to a slat, an intermediate portion can reasonably be any location along a central axis of the slat, and that central axis can be longitudinal or vertical, or quite simply, any axis that evenly bisects any portion of the slat. Turning to Figures 5-7 of Milano, Jr, it seems very clear to the Examiner that slat interface 42, specifically, the connector portion 50 and sleeves 58, does in fact connect to the slat at an intermediate portion, i.e., at a location along a central axis of the slat. Further, the applicant argues that the claimed invention is an "add-on", but nowhere in the independent claims is such a feature recited. It is suggested that the applicant recite the structure of the slat interface, and not its connection at an intermediate portion of the slat, as the novel aspect of the invention. Note paragraphs 47-50 of the Specification, and the previously indicated allowable subject matter of claims 7 and 23.

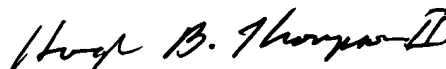
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Also, though not new matter per se, there appears to be no recitation of the "intermediate portion" of the slat in the Specification, upon review by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hugh B. Thompson II
Primary Examiner
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June 23, 2006